

REMARKS

I. Summary of Office Action

Claims 1-148 were pending in this application. Claims 27-49, 75-97 and 123-145 are withdrawn from the application, as being drawn to non-elected claim groups.

Claims 1-15, 17-26, 50-52, 54-65, 67-72, 98-122 and 146-148 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over LaJoie et al. U.S. Patent No. 5,850,218 (hereinafter "LaJoie") in view of Walter U.S. Patent No. 4,506,387 (hereinafter "Walter").

Claims 5 and 53 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over LaJoie in view of Walter in further view of Dunn et al. U.S. Patent No. 6,571,390. Claims 16 and 66 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over LaJoie in view of Walter in further view of Yates et al. U.S. Patent No. 6,330,586. Claims 73, 74, 78 and 86-89 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over LaJoie in view of Walter in further view of Smith U.S. Patent No. 5,982,303.* Claims 81 and 82 have been

* Applicant notes that claims 78 and 86-89 were withdrawn from consideration for being in a non-elected claim group. Therefore, applicant will not address the rejection of these claims in this reply.

rejected under 35 U.S.C. § 103(a) as being unpatentable over LaJoie in view of Walter in further view of an article titled "Windows 98 pricing holds the line" from News.com.*

II. Summary of Telephonic Interview

Applicant wishes to thank Examiner Lonsberry and Examiner Vivek Srivastava for the courtesies extended during the telephonic interview conducted on August 5, 2004 with the undersigned.

During the interview, applicant's argument in the August 29, 2003 Reply to Office Action that LaJoie does not show or suggest displaying "at least one video-on-demand program listing" was discussed. An agreement was not reached. Details of the interview will appear in the discussion below where appropriate.

III. Summary of Applicant's Reply to Office Action

Claims 149-157 have been added. Applicant respectfully submits that the subject matter of new claims 149-

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157 are fully supported by the originally-filed specification. No new subject matter has been added.

The Examiner's rejections are respectfully traversed.

IV. LaJoie Does Not Show or Suggest Displaying At Least One Video-On-Demand Program Listing

Common to all of applicant's claims is applicant's interactive television program guide feature of displaying "at least one video-on-demand program listing." The Examiner contends that "LaJoie inherently includes means for displaying VOD program listings in Figure 5 . . . and that the electronic program guide reads service, channel and descriptive information by referring to column 125 in table 103" (May 20, 2004 Office Action, page 4). Applicant respectfully disagrees and wishes to point out that when a reference is silent about an asserted inherent characteristic, evidence is required to show that the missing descriptive matter is necessarily present. See Continental Can Co. USA v. Monsanto Co., 948 F.2d 1264, 1268 (Fed. Cir. 1991). Applicant respectfully submits that the Examiner has failed to provide any such evidence with respect to his contention that FIG. 5 of LaJoie shows VOD program listings.

In fact, applicant submits that FIG. 5 has nothing to do with program listings. FIG. 5 of LaJoie refers to "channel look-up tables" that are used by the set-top terminal to identify networks and services associated with particular channels (LaJoie, column 16, lines 10-16). These tables simply track which network or service is provided on which channel. Thus, using these tables, the set-top terminal can only inform the program guide that a particular channel is a VOD service (LaJoie, column 16, lines 12-24). This does not mean that the program guide can provide program listings for programs provided on those VOD channels.

Applicant's submission that FIG. 5 has nothing to do with program listings is made even clearer when considering the purpose of the channel look-up tables. These tables are used to facilitate the implementation of certain features of LaJoie that specifically relate to channels. For example, these tables allow channel settings established by a user to be maintained even if a cable operator changes the channel line-up. For instance, parents may want to prevent their children from watching a service that is on, e.g., channel 12, such as a music service like "MTV." If the cable operator changes "MTV" to be on channel 2, the channel setting preventing the child

from watching "MTV" would remain because LaJoie's channel settings are associated with the service, not the channel. LaJoie achieves this solution using channel table 101, such that each entry (i.e., channel) is assigned a specific entry in service table 103. To a user, all the channel settings appear to be associated with a particular channel. In actuality, the channels settings are associated with a specific entry in service table 103. This channel specific function is just one example of how the tables in FIG. 5 does not have anything to do with program listings. The tables in FIG. 5 are used to track which services are provided on which channels. (See LaJoie, column 17, lines 11-29).

Based on discussions during the interview, it appears that the Examiner is relying on the discussion of FIG. 5 relating to descriptive information for channels and services to show program listings:

Descriptive information, e.g., information that can be displayed to the user in the interactive program guide, program information banner, or browse banner which can be used to identify the channel, such as call sign, logo, etc., for a channel's service is determined by referring to column 125 in service table 103. (LaJoie, column 16, lines 45-51).

Applicant submits that the Examiner has confused displaying program listings in a program guide with displaying information

about a channel or service in a program guide. Although this section does refer to a program guide, it does not refer to program listings. It clearly states that the descriptive information that can be extracted from column 125 of table 103 and then displayed in the program guide is specific to a channel or service. More specifically, this section states that the look-up tables can be used to provide information to be displayed in the program guide to identify a channel. Examples of descriptive information that identifies a channel are a channel's call sign or a channel's logo. This descriptive information is likely displayed in order to provide a user with more information about a channel's service than just a channel number. As mentioned above, cable operators may change the channel line-up. This enables a user to better understand what service is being provided on a particular channel. This does not mean that FIG. 5 shows or suggests that LaJoie's program guide can provide program listings related to services listed in service table 103.

Applicant respectfully requests that for at least these reasons, the rejections under 35 U.S.C. § 103(a) of all of the independent claims should be withdrawn because LaJoie does not disclose displaying "at least one video-on-demand

program listing" which each independent claim requires. The dependent claims are allowable at least because the independent claims are allowable.

Further patentable features and embodiments are discussed below in the sections that address the Examiner's claim rejections.

V. LaJoie Does Not Show or Suggest Displaying A Partial Screen Program Guide That Includes At Least One Video-On-Demand Program Listing

Common to all of applicant's claims is applicant's interactive television program guide feature of "displaying a partial screen program guide [that includes] at least one video-on-demand program listing." As discussed in applicant's application, prior to applicant's approach, when a user desired to view VOD program listings, prior systems launched a VOD program guide display that covered the entire television screen. A user could not, therefore, view both the VOD program guide display and the previously selected television program. In order for a user to view VOD program listings, the user would have to stop watching the previously selected television program and display the full-screen VOD program guide. (Applicant's Specification, page 3, lines 10-21). Applicant's

approach patentably improves upon the prior art by allowing a viewer to simultaneously view both a VOD program guide display and a previously selected television program. "This feature is particularly useful when, for example, one member of the household desires to browse video-on-demand program listings while another household member desires to continue watching a program in progress" (Applicant's specification, page 21, lines 14-18).

Applicant submits that how services are implemented in LaJoie parallels the prior art described in applicant's application. LaJoie discloses that one of the channels in its system could have a World Wide Web browser as a service (see LaJoie, column 17, lines 42-57). When a user requests to view this channel, the user is prompted to provide login information, a browsing session is established and then the World Wide Web browser is launched on the channel. The launching of this service in the form a World Wide Web browser on the channel is analogous to how the prior art launches the VOD program guide display that covers the entire television screen. Even if, as the Examiner contends, FIG. 5 of LaJoie teaches providing VOD program listings, which LaJoie does not, these teachings of implementing services should also be

considered. If anything, when considering LaJoie as a whole, LaJoie would teach providing VOD program listings like the prior art where a user could not simultaneously view both the VOD program guide display and the previously selected program. Therefore, LaJoie does not show or suggest "displaying a partial screen program guide [that includes] at least one video-on-demand program listing" as recited in applicant's claims.

Applicant respectfully requests that for at least this reason, the rejections under 35 U.S.C. § 103(a) of all of the independent claims should be withdrawn because LaJoie does not disclose "displaying a partial screen program guide [that includes] at least one video-on-demand program listing" which each independent claim requires. The dependent claims are allowable at least because the independent claims are allowable.

Further patentable features and embodiments are discussed below in the sections that address the Examiner's claim rejections.

VI. Applicant's Reply to the Rejection of the Claims

Independent claims 1, 50, and 98 are directed towards displaying a television program while simultaneously displaying, in a partial screen program guide, at least one VOD program listing. The interactive television program guide system then displays a VOD program immediately when the viewer selects the VOD program listing. Further patentable features and embodiments are set forth in dependent claims 2-26, 51-72, and 99-122.

The Examiner correctly acknowledges the novelty of applicant's approaches over LaJoie in stating that LaJoie fails to disclose "displaying a VOD program immediately when a user selects a VOD listing" (May 20, 2004 Office Action, page 3). Nevertheless, the Examiner contends that this deficiency can be made up with Walter. However, as stated above in sections IV and V, applicant respectfully submits that the deficiencies in LaJoie is that LaJoie does not show or suggest displaying at least one VOD program listing, nor does it show or suggest displaying a partial screen program guide display that includes at least one VOD program listing. Since Walter does not show or suggest an interactive television program guide that displays at least one VOD program listing, the LaJoie-Walter

combination still does not show or suggest applicant's feature of "displaying at least one video-on-demand program listing." Since Walter also does not show or suggest a partial screen program guide display that includes at least one VOD program listing, the LaJoie-Walter combination still does not show or suggest applicant's feature of "displaying a partial screen program guide display [that includes] at least one video-on-demand program listing." Furthermore, applicant respectfully submits that since the LaJoie-Walter combination does not show or suggest displaying at least one VOD program listing, this combination cannot show or suggest displaying a VOD program immediately in response to a viewer selecting a VOD program listing.

Accordingly, for at least these reasons, applicant respectfully requests that the rejection of claims 1, 50, and 98 under 35 U.S.C. § 103(a) be withdrawn.

Claims 2-26 are dependent from claim 1 and are allowable at least because claim 1 is allowable. Claims 51-72 are dependent from claim 50 and are allowable at least because claim 50 is allowable. Claims 99-122 are dependent from claim 98 and are allowable at least because claim 98 is allowable.

VII. Conclusion

The foregoing demonstrates that claims 1-26, 50-74 and 98-122 are patentable. This application is therefore in condition for allowance. Reconsideration and allowance are accordingly respectfully requested.

Respectfully submitted,

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